

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

THOMAS J. BLAKE,

Plaintiff,

v.

KELLI WILLARD-WEST, et al.

Defendants.

ORDER

Case No. 21-cv-493-jdp

Plaintiff Thomas J. Blake, a prisoner in the custody of the Wisconsin Department of Corrections, has submitted a proposed civil action under 42 U.S.C. § 1983. Plaintiff has filed a certified copy of a trust fund account statement in support of the motion for leave to proceed without prepaying the filing fee. After considering the motion and supporting documentation, the court concludes that plaintiff qualifies for indigent status.

Even when a prisoner litigant qualifies for indigent status, the litigant must pay a portion of the fee returned by the formula set forth in 28 U.S.C. § 1915(b)(1). Using information for the relevant time period from plaintiff's trust fund account statement, I calculate plaintiff's filing fee to be \$350.00.¹ For this case to proceed, plaintiff must submit this amount on or before September 7, 2021.

With the complaint, plaintiff also filed a motion requesting a waiver of indigency, apparently (and mistakenly) believing that will allow him to use his release account funds to pay the entire \$350 fee for filing this case. In his motion, plaintiff states that a pro se litigant must submit a request to proceed without prepaying the full filing fee. However, that is not

¹ Effective December 1, 2020, the total fee for filing a civil action is \$402 (the filing fee for those who qualify for indigent status is \$350.00).

true, a pro se litigant waiving indigency would have the effect of increasing the filing fee to \$402.

Plaintiff's request to use release account funds to pay the entire filing fee is granted in part. Plaintiff's assessed payment as an indigent litigant is \$350. If plaintiff does not have enough money to make the \$350 payment from plaintiff's regular account, plaintiff should arrange with authorities to pay the remainder from plaintiff's release account.

ORDER

IT IS ORDERED that,

1. Plaintiff Thomas J. Blake is assessed \$350.00 as an indigent litigant for payment of the \$350.00 fee for filing this case. Plaintiff is to submit a check or money order made payable to the clerk of court in the amount of \$350.00 or advise the court in writing why plaintiff is not able to submit the assessed amount on or before September 7, 2021.

2. Plaintiff Thomas J. Blake's motion requesting a waiver of indigency to use his release account to pay this fee (Dkt. #3) is GRANTED only to the extent that he does not have enough money to make the \$350 payment from his release account.

3. If, by September 7, 2021, plaintiff fails to make the initial partial payment or show cause for failure to do so, plaintiff will be held to have withdrawn this action voluntarily and the case will be closed without prejudice to plaintiff filing this case at a later date.

4. No further action will be taken in this case until the clerk's office receives plaintiff's initial partial filing fee as directed above and the court has screened the complaint

as required by the Prisoner Litigation Reform Act, 28 U.S.C. § 1915(e)(2). Once the screening process is complete, a separate order will issue.

Entered this 17th day of August, 2021.

BY THE COURT:

/s/
PETER OPPENEER
Magistrate Judge